

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Norma J. Kirkland,)	Civil Action No. 3:10-01851-MJP-PJG
)	
Plaintiff,)	
)	
v.)	
)	
The Columbia College,)	<u>ORDER</u>
)	
Defendant,)	
_____)	

This matter is before this Court for a review of Magistrate Judge Paige J. Gossett's Report and Recommendation made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2), D.S.C., and filed September 8, 2010. Plaintiff filed the above-captioned action against Defendant, The Columbia College, alleging that she was terminated in violation of the Age Discrimination in Employment Act, 42 U.S.C. § 12101 *et seq.*, the Due Process Clause of the 14th Amendment, and her contract of employment. On August 4, 2010, Defendant filed a Motion to Dismiss Plaintiff's second cause of action for violation of due process and fourth cause of action for injunctive relief pursuant to Rule 12 of the Federal Rules of Civil Procedure for failure to state a cause of action upon which relief can be granted. Specifically, Defendant asserts that dismissal of the due process claim is appropriate because the Due Process Clause of the 14th Amendment does not protect individuals from the kind of private action that is at issue in this litigation. Further, Defendant asserts that the claim for injunctive relief should be dismissed because the Court does not have the power to order a private entity/employer such as Defendant to implement policies and procedures that are written and enforced in such a manner as to provide due process rights.

On September 7, 2010, Plaintiff filed a responsive document entitled “Stipulation of Dismissal with Prejudice of Plaintiff’s Second and Fourth Causes of Action” in which she expressly dismissed her due process claim and claim for injunctive relief with prejudice and with the express consent of counsel for Defendant. Upon review, the Magistrate Judge recommends granting Defendant’s Motion to Dismiss. Plaintiff did not file any objections to the Magistrate’s Report and Recommendation.

The Magistrate Judge only makes a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. Mathews v. Weber, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate with instructions.” Id. In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198 (4th Cir. 1983).

Upon careful consideration of the record, the Court adopts the Magistrate’s Report and Recommendation in its entirety. Defendant’s Motion to Dismiss is **GRANTED** and Plaintiff’s second and fourth causes of action for violation of due process and injunctive relief are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

s/MATTHEW J. PERRY, JR.
SENIOR UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
October 26, 2010.